

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

GOLDA D. HARRIS,

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

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Civil Action No. 16-9315 (MAS) (DEA)

MEMORANDUM ORDER

This matter has come before the Court, by way of removal from state court, on a civil rights Complaint filed by Plaintiff Golda D. Harris. Plaintiff previously moved to remand, which the Court denied, on the account that the United States of America is a named defendant, and that the Complaint asserts federal claims under the federal Constitution. (*See* Order, Jan. 26, 2017, ECF No. 3.) The Court, however, gave Plaintiff the option of waiving her claims against the United States and all federal claims if she insists on remand. (*Id.* at 1-2.)

Presently before the Court is Plaintiff's second motion to remand. (ECF No. 4.) In this motion, she asserts that she "do[es] not waive [her] rights to sue U.S.A. for federal claims in a federal lawsuit," (Mot. to Remand 4, ECF No. 4), and that she is asserting "state law claims for violations of my U.S. constitutional rights[.]" (*Id.* at 5.) The Court is unsure how claims arising out of the federal Constitution would be construed as state law claims. *See Dambach v. United States*, 211 F. App'x 105, 107 (3d Cir. 2006) ("[F]ederal law is the source of liability for the deprivation of a federal constitutional right[.]"). Regardless, claims against the United States are within the original jurisdiction of the federal courts, even tort claims under state law. *See* 28 U.S.C. §§ 1346(a), 1491(a)(1) & 1346(b) (stating that "the district courts . . . shall have *exclusive*

jurisdiction of civil actions on claims against the United States” for non-constitutional torts) (emphasis added). Because Plaintiff refuses to waive her federal claims, her second motion to remand is denied.

IT IS therefore on this 23rd day of February, 2017,

ORDERED that Plaintiff’s motion to remand (ECF No. 4) is hereby **DENIED**; and it is further

ORDERED that the Clerk shall serve a copy of this Order upon Plaintiff by regular mail.



MICHAEL A. SHIPPE
UNITED STATES DISTRICT JUDGE